THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.6317 OF 1998

AND

WRIT PETITION NO.6320 OF 1998

DATED: 21-2-2007

In WRIT PETITION NO.6317 OF 1998:

Between :

1. Cheela Prabhakar and 2 others. .. Petitioners

and

1. The Station House Officer, Kamareddy P.S., Nizamabad District., and another. ... Respondents

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In WRIT PETITION NO.6320 OF 1998:

Between :

1. Yousuf Ali and 5 others .. Petitioners

and

1. The Station House Officer, Kamareddy P.S., Nizamabad District., and another. ... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.6317 OF 1998

AND

WRIT PETITION NO.6320 OF 1998

COMMON ORDER :

The petitioners in W.P.No.6317 of 1998 are the accused in First Information Report No.40/1998, dated 22-2-1998 on the file of Kamareddy P.S., Nizamabad, registered for the offences punishable under Sections 147, 186, 506 and 188 of IPC and Sections 130 & 131 of the Representation of Peoples Act, 1950.

Similarly the petitioners in W.P.No.6320 of 1998 are the accused in First Information Report No.39 of 1998 on the file of Kamareddy P.S., registered on the same day for the same offences.

These two writ petitions are filed to issue a Certiorari to call for the above said records relating to Cr.Nos.40/1998 and 39/1998 and to quash the same being arbitrary and illegal.

I have heard the learned Counsel for both the parties and perused the material on record.

Both the above said crimes were registered on the basis of a complaint dated 22-2-1998 lodged by the Circle Inspector of Police, Kamareddy alleging that the petitioners who claim to be the party-workers of different political parties were canvassing within the prohibited areas from the polling booths for the election of Lok Sabha, Medak Parliamentary Constituency held on 22-2-1998. It was alleged that though they were cautioned, the petitioners had not only continued the canvassing in violation of the prohibitory orders but also abused him, thereby interfering with his official duties.

These two writ petitions were filed on 8-3-1998 primarily contending that the proceedings were initiated with a mala fide intention to do favour to the candidate belonging to Congress-I party who had contested in the election. It is also contended that the allegations in the complaint prima facie did not constitute any offence and therefore on that ground alone the proceedings are liable to be quashed as held by the Supreme Court in STATE OF HARYANA v.

BHAJAN LAL[1].

A counter-affidavit has been filed by the 2nd respondent – Complainant - denying all the said allegations.

The law is well-settled that the interference by this Court in proceedings to relating to cognizable offences in exercise of jurisdiction under Article 226 of the Constitution of India is warranted only to prevent abuse of process of any court or to secure the ends of justice. It has been repeatedly held by the Courts that such power under Article 226 should be exercised sparingly and in the rarest of the rare cases where the allegations made in the complaint even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

On a careful consideration of the material on record and having heard the learned Senior Counsel appearing for the petitioners in detail, I am unable to hold that the instant cases fall under such category of rarest of rare cases making out no offence against the petitioners even if the allegations in the complaint are accepted.

It is true that the petitioners denied the allegations in the complaint and also attributed mala fides to the Complainant, however the same cannot be taken as a ground to quash the proceedings at the threshold. Since the matter involves serious disputed questions of fact yet to be investigated, I do not find any justifiable reason to quash the proceedings at this stage on the basis of the mere denial of the allegations by the petitioners. Accordingly, both the Writ Petitions are dismissed leaving it open to the respondents to take appropriate steps following due process of law. No costs.

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G. ROHINI, J.

Dt. 21-2-2007

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[1] AIR 1992 SC 604